

Application Serial No. 10/822,882
Amendment dated March 15, 2006
Response to Office Action dated December 15, 2005

REMARKS/ARGUMENTS

Applicant has received and carefully reviewed the Office Action of the Examiner mailed December 15, 2005. Claims 1-34 remain pending. Reconsideration and reexamination are respectfully requested.

Initialed Copies of IDS's

Applicant would like to thank the Examiner for providing an initialed copy of the Form-1449 that was filed by Applicant on September 28, 2005. However, initialed copies of the Form-1449's filed on July 19, 2004, November 16, 2005 and February 2, 2006 do not appear to be included. As such, *Applicant respectfully requests that the Examiner provided initialed copies of the Form-1449's filed on July 19, 2004, November 16, 2005 and February 2, 2006.*

Claim Objections

Claim 22 is objected to for being a substantial duplicate of claim 23. Claim 22 recites one of the test activates and tests the primarily active component, while claim 23 recites the dormant component. Applicant submits that the claims are not substantial duplicates. Withdrawal of the objection is respectfully requested.

Rejection under 35 U.S.C. § 102(b)

Claims 1-34 are rejected as being anticipated by Hill et al. (EP 1 196 003 A2). Applicant traverses the rejection. Independent claim 1 recites a method for testing an HVAC system including the steps of transmitting a test request to the HVAC system from a remote location, performing a test on a primarily dormant component of the HVAC system and producing a test result, and transmitting the test result to a location outside of the building. Hill et al. do not appear to teach such method steps. For example, Hill et al. do not appear to teach transmitting a test request to the HVAC system from a remote location, or performing a test on a dormant component of the HVAC system. The portion of Hill et al. referred to by the Examiner,

Application Serial No. 10/822,882
Amendment dated March 15, 2006
Response to Office Action dated December 15, 2005

paragraph 16, lines 6-7, merely states that "[a] user uses entry device 10 to access diagnostic or status information relating to HVAC device 14." Applicant submits that such disclosure does not anticipate the specific method steps recited in the claims. Hill et al. appear to teach sending status and/or diagnostic information from a HVAC controller to an entry device (via the server). However, this appears to merely read whatever status and/or diagnostic information is made available by the HVAC controller. This clearly does not teach anything regarding transmitting a test request to the HVAC system, or performing a test on a dormant HVAC component, as is recited in claim 1.

MPEP 2131 states in order to anticipate a claim, " 'The identical invention must be shown in as complete detail as is contained in the ... claim.' Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)." Applicant submits that Hill et al. do not teach each and every element of independent claim 1, thus Hill et al. cannot be deemed to anticipate claim 1 or the claims dependent thereon.

With respect to claims 2-5, the Examiner asserts that Hill et al. teach the primarily active component or the primarily dormant component is a cooling component or a heating component, referring to reference number 14 in figure 1. Reference number 14 in Hill et al., however, merely refers to the "HVAC device" in general. Hill et al. do not teach an active component or a dormant component, or testing of either specific component. The Examiner asserts that the monitoring system of Hill et al. is continuously monitoring/testing the system so it would be a reasonable interpretation to assume that the heating/cooling components are being monitored in both active and dormant states. Applicant respectfully disagrees. As stated above, for a reference to be deemed anticipatory, it must teach the identical invention in as complete detail as is contained in the claims. Applicant submits that making an assumption as to the operation of a system in a reference without any specific teaching to support the assertion is an improper basis for an anticipation rejection.

Furthermore, Hill et al. do not appear to teach continuously monitoring/testing the system, as the Examiner suggests. Instead, Hill et al. appear to merely request status and/or diagnostic data from the HVAC controller, either on a regular basis or upon request from the

Application Serial No. 10/822,882
Amendment dated March 15, 2006
Response to Office Action dated December 15, 2005

entry device. There appears to be no indication in Hill et al. that the server or entry device actually initiates any “test” of the HVAC system, and more specifically, transmits a test request to the HVAC system, or performs a test on a dormant HVAC component.

With respect to claim 15, the Examiner asserts that Hill et al. teach the HVAC system having two or more zones and a test that is performed activates the primarily dormant component in conjunction with each of the two or more zones, pointing to paragraph 7 for support. Applicant has carefully reviewed paragraph 7 of Hill et al. and has found no such teaching. As stated above, Hill et al. do not appear to teach testing a dormant component of the HVAC system. Additionally, Hill et al. do not appear to teach a test that activates a dormant component in conjunction with each of two or more zones, as is recited in claim 15.

Independent claim 21, as amended, recites:

21. (currently amended) A method for testing a plurality of HVAC systems each in a different building structure or in a different region of a common building structure from a remote location, the HVAC systems having a primarily active component and a primarily dormant component, the method comprising the steps of:

transmitting a test request to each of the plurality of HVAC systems from the remote location;

performing one or more tests on each of the HVAC systems in response to the test request, and producing a test result for each of the HVAC systems, wherein at least one of the one or more tests that is performed activates and tests one or more of the active or dormant component of an HVAC system; and

transmitting the test result for each of the HVAC systems to a remote location.

Hill et al. do not appear to teach such method steps. As stated above, Hill et al. do not appear to teach transmitting a test request to each of a plurality of HVAC systems from a remote location, or performing one or more tests on an active or dormant component. In addition, Hill et al. do not appear to teach one or more tests that activate either a primarily active or dormant component of the HVAC system. As noted above, Hill et al. appear to be merely passive in this regard (i.e. Hill et al. do not appear to transmitting any tests to the HVAC controller, but merely read up any

Application Serial No. 10/822,882
Amendment dated March 15, 2006
Response to Office Action dated December 15, 2005

status and/or diagnostic data provided by the HVAC controller). Hill et al. thus do not teach each and every element of independent claim 21, or the claims dependent thereon.

With respect to claim 25, the Examiner points to paragraph 32, lines 46-50 of Hill et al. as teaching the step of identifying which of the HVAC systems will likely need service by analyzing the test results. This passage of Hill et al., however, merely states that status information on the HVAC devices that is contained in the database is updated on a regular basis or when requested by a message from the entry device. Hill et al. do not appear to teach a method step of analyzing test results and identifying which of a plurality of HVAC systems will likely need service based on those test results, as is recited in independent claim 25. Hill et al. do not appear to teach each and every element of the claim and thus cannot be deemed to anticipate the independent claim or the claims dependent thereon.

Regarding claim 26, the Examiner asserts that figure 1 of Hill et al. discloses the step of providing different test requests to at least two of a plurality of HVAC systems, wherein each test request identifies a different test to be performed. Figure 1 merely illustrates two entry devices in communication with a server that is in communication with two HVAC devices. Neither figure 1, nor any other portion of Hill et al. appears to teach the method step recited in claim 26. Regarding claim 27, the Examiner asserts that it is within reasonable interpretation to infer that a service technician would charge for his/her services. Applicant respectfully traverses the rejection. As stated above, making an assumption as to a method step that is not supported by a specific teaching in a reference appears to be an improper basis for an anticipation rejection. Additionally, even if such assumption were correct, the assumption that a technician would charge for work does not meet the elements of the claim. Claim 27 recites the step of charging an owner an amount that depends on the particular test that is performed on the HVAC system. Hill et al. do not appear to teach such method step.

The Examiner asserts that Hill et al. teach the method step of scheduling service on at least some of the HVAC systems that have been identified as likely needing service, as is recited in claim 28, citing paragraph 7, lines 30-35 for support. Applicant has carefully reviewed this passage in Hill et al. and have found no such teaching. Hill et al. teach a method in which status

Application Serial No. 10/822,882
Amendment dated March 15, 2006
Response to Office Action dated December 15, 2005

information is provided upon request and updated on a server, and in which settings on at least one HVAC device are changed from an entry device. Hill et al. do not appear to teach any steps relating to scheduling service for HVAC systems that have been identified as likely needing service.

Independent claims 29 and 30 recite methods for testing an HVAC system prior to a heating or cooling season, respectively, including the steps of activating the heating or cooling component even though the HVAC system would not normally call for heat or cooling, respectively, and determining if the heating or cooling component is in compliance with predetermined conditions. Hill et al. do not appear to teach such method steps. The Examiner points to paragraphs 4 and 32 for support. Applicant has carefully reviewed these passages in Hill et al. and found no such teaching. Hill et al. appear to teach a method involving querying at least one HVAC device for status information and sending the status information to an entry device. Hill et al. do not appear to teach anything relating to activating a heating or cooling component when the HVAC system would not normally call for heat or cooling, respectively. Hill et al. thus do not teach each and every element of the claims.

Independent claim 31 recites a method including the steps of receiving one or more maintenance signals at each HVAC system, the maintenance signals activating an HVAC component, performing a self-test on the activated component, generating self-test result signals, and transmitting and receiving the self-test results to a remote unit. As stated above, Hill et al. do not appear to teach a signal that activates an HVAC component. Additionally, Hill et al. do not appear to teach transmitting a maintenance signal that activates a component. Hill et al. thus do not appear to teach each and every element of the independent claim or the claims dependent thereon. Additionally, Hill et al. do not appear to teach the specific elements of dependent claims 32-34.

Hill et al. fails to teach each and every limitation of the claims and thus cannot be deemed to anticipate the claims. Reconsideration and withdrawal of the rejection is respectfully requested.

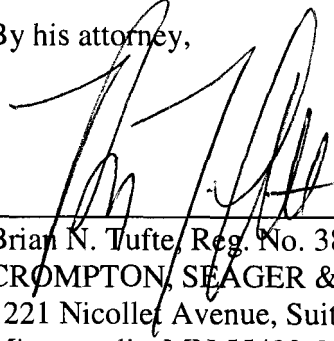
Application Serial No. 10/822,882
Amendment dated March 15, 2006
Response to Office Action dated December 15, 2005

Reconsideration and reexamination are respectfully requested. It is submitted that, in light of the above remarks, all pending claims 1-34 are now in condition for allowance. If a telephone interview would be of assistance, please contact the undersigned attorney at 612-359-9348.

Respectfully submitted,

Richard Simons

By his attorney,



Dated: March 15, 2006

Brian N. Tufte, Reg. No. 38,638
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2402
Telephone: (612) 677-9050
Facsimile: (612) 359-9349